

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

September 15, 2006 Session

DANIEL MUSIC GROUP, LLC v. TANASI MUSIC, LLC

Chancery Court for Davidson County
No. 05-0761-II Carol L. McCoy, Chancellor

No. M2005-02217-COA-R3-CV - Filed on March 30, 2007

WILLIAM C. KOCH, JR., P.J., M.S., concurring.

I concur with the court's opinion in this case. While trial courts possess broad discretionary authority to control their dockets and the proceedings in their court, *Hessmer v. Hessmer*, 138 S.W.3d 901, 904 (Tenn. Ct. App. 2003), their discretion is not so broad that it permits them to make procedural decisions that prejudice the procedural rights of the litigants. Setting a trial on the merits one day after a hearing of an as yet unheard motion to dismiss could be viewed as peremptory and somewhat unorthodox. However, Tanasi Music Group, LLC and Edward Arnold must demonstrate that they have actually been prejudiced by the trial court's procedural decision if they are to prevail on appeal. Tenn. R. App. P. 36(b). Despite being afforded numerous opportunities, neither of these parties has presented any convincing argument that the trial court's decision in this case prevented them from (1) preparing and filing an answer, (2) requesting a jury, or (3) being prepared for a trial on the merits.

WILLIAM C. KOCH, JR., P.J., M.S.